

# OFFICE OF PROFESSIONAL ACCOUNTABILITY (OPA) COMPLAINT REPORT May 2012

## OPA Director's Monthly Message

The Office of Professional Accountability's (OPA) monthly report provides information about Seattle Police Department (SPD) misconduct complaints that are investigated by OPA. This report includes summaries as to cases closed during the month of May 2012, along with data on the number and classification of complaints filed, with a comparison to earlier months and 2011. Monthly reports include charts showing the percentage of cases closed with different types of findings, information about the OPA mediation program, and policy review and training recommendations when made.

### May 2012 Highlights

- In the first 5 months of 2012, there were complaints filed against 115 employees, representing 6.4% of all 1,807 SPD employees (1,296 sworn and 511 civilian)
- 13% of allegations closed January - May 2012 were Sustained, resulting in discipline
- 24% of allegations closed to date in 2012 resulted in a Training Referral, meaning that the named employee received training or counseling following the complaint
- The remaining cases were closed as Unfounded, Lawful and Proper, or Inconclusive

The Department recognizes that first-line supervisors are important to creating a culture of excellence in the patrol force and SPD has taken a number of steps to reinvest in its supervisors. Beginning in January 2012, the sergeant/officer assignment system was changed so that sergeants have specific officers report to them, officers have a clear line of command, and more effective team building can occur. In the fall of 2011, training was held for all sergeants on report writing, to emphasize the importance of thorough and accurate reporting by officers and sergeants, and to highlight the negative impact incomplete reports have on criminal prosecutions, the OPA misconduct investigation process, and in defending claims against the Department. The 20/20 Plan also includes a specific initiative to create a Sergeant's Academy, which would provide at least two weeks of training for all sergeants on a variety of topics including the responsibility of supervisors for employee performance, leadership practices, key elements of the Race and Social Justice Initiative, and many other important issues.

The 20/20 initiative to Improve Transparency and Accountability includes a goal of enhancing accountability by extending expectations beyond the OPA for handling complainants of misconduct. While many officers and supervisors are very effective in addressing concerns raised by citizens during police incidents, others would benefit from dispute resolution and communication training. Further, SPD policy is not as clear as it could be about the types of complaints that can be handled at the precinct level, verses those that should be referred to OPA. In order to be sure the Department has a complete picture of complaints, we also need a means to track at least some of the complaints handled outside OPA, though this requires changes to our current computerized complaint tracking system. These are all matters that are under development through 20/20 and other OPA and SPD efforts.

While these efforts move forward, OPA has been working to refer more complaints back to supervisors for handling. These complaints, classified for Supervisor Action, usually involve less serious allegations such as officer rudeness or discourtesy that are unlikely to result in discipline. OPA wants to ensure that the complainant's perception is shared with the officer and that the citizen understands the context in which



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the officer was working. A supervisor can facilitate a better understanding between the officer and citizen in such cases. Other times, following a preliminary investigation by OPA, the complaint is referred to the supervisor for information only, as OPA has determined no further steps need to be taken with the citizen or officer. Data from the May report shows that approximately 11% more OPA complaints were classified for Supervisor Action in the first 5 months of 2012, as compared to the same period in 2011, a trend in line with the Department's system-wide changes and representing a goal the OPA announced last year to refer more complaints for supervisor handling.



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Complaint Report  
May 2012

*Cases involving alleged misconduct of SPD employees in the course of their official public duties are summarized below. Identifying information has been removed.*

**May 2012 Closed Cases**

<b>Case Summary</b>	<b>Case Finding</b>
A third party complainant, a community activist, shared with the media an In-Car Video alleging that the named officer used unnecessary force while taking a suspect into custody for assault on an officer.	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force – <b>Lawful &amp; Proper</b></li> </ol> <p>The evidence demonstrated that the named officer was one of many officers involved in a drug enforcement effort and that he directly witnessed the assault on another officer. The evidence demonstrated the named officer used reasonable and necessary force to overcome the arrestee's resistance and to stop him from fleeing.</p>
A neighboring law enforcement agency notified OPA that they were investigating an allegation of Domestic Violence Harassment between named employee and his spouse.	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> <li>1. Violation of Law-Administrative (DV Harassment) – <b>Inconclusive</b></li> </ol> <p>The evidence demonstrated that the prosecuting attorney's office declined to file charges of DV Harassment against named employee. The evidence is inconclusive regarding whether the named employee engaged in the misconduct alleged.</p>
The complainant, a relative of the subject, alleges named officer used unnecessary force on his nephew when attempting to arrest him.	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force – <b>Lawful &amp; Proper</b></li> </ol> <p>The evidence showed that the subject had just crashed a stolen car he was driving and was attempting to escape from the scene on foot. The evidence demonstrated that the named officer used reasonable and necessary force to bring subject under control after subject aggressively assaulted her by punching and kicking.</p>
The complainant, while participating with a protest group at a local hotel, alleges that named officer, on several occasions, shoved her and members of her group as they were peacefully protesting.	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force – <b>Inconclusive</b></li> </ol> <p>The evidence showed that a group of protesters linked arms and stood across the path to all entrances and exits of the hotel. The evidence demonstrated that the named officer used minimal contact with protesters to clear a path for hotel guests to enter and exit the hotel. This was done after repeatedly directing the protesters to move so access could be given to the hotel guests.</p>



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Case Summary	Case Finding
An anonymous complaint was sent to the Chief of Police alleging that the named employee was in possession of unregistered weapons and other questionable items that may have come from cases that should have been returned.	<p>Allegations and Finding:</p> <ol style="list-style-type: none"> <li>1. Violation of Law-Administrative (Theft/Unlawful Possession of Firearms) – <b>Inconclusive</b></li> <li>2. Mishandling Evidence/Property – <b>Inconclusive</b></li> </ol> <p>The evidence demonstrated that the Department's Criminal Intelligence Section and the Bureau of Alcohol, Tobacco, and Firearms (ATF) conducted a joint criminal investigation. The criminal investigation exhausted any leads from the anonymous letter and did not develop further leads. The evidence is inconclusive whether the named officer engaged in the misconduct alleged.</p>
The complainant reported to a patrol sergeant that the named officer had unjustifiably pushed him into a bush while he was investigating why complainant was chasing after a person who looked in distress. The patrol sergeant referred this information to OPA-IS.	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force – <b>Unfounded</b></li> </ol> <p>The complainant refused to provide OPA-IS any information when contacted, stated the matter was a misunderstanding and did not want to make a complaint.</p>
The complainant alleges that the named employee yelled at her for driving the wrong direction down a closed street even though she had a parking permit for the special event that was occurring at the time. OPA-IS added an allegation of Failure to Use In-Car Video when named officer used his vehicle to conduct a traffic stop	<p>Allegations and Finding:</p> <ol style="list-style-type: none"> <li>1. Courtesy – <b>Inconclusive</b></li> <li>2. Failure to Use In-Car Video System—<b>Training Referral</b></li> </ol> <p>The evidence is inconclusive as to whether named employee was discourteous when confronting complainant about driving her vehicle into a closed area. The evidence demonstrates that the named employee did fail to use his In-Car Video while using his vehicle to make the traffic stop. The training referral will benefit the named employee as he discusses with his supervisor the importance of consistently utilizing his In-Car Video System per Department policy.</p>
The complainant, a participant in the "Occupy Seattle" protest, alleges that an unknown officer used excessive force by deploying a chemical agent against the crowd.	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force – <b>Lawful &amp; Proper</b></li> </ol> <p>The evidence demonstrated that the officers managing the "Occupy Seattle" protest used reasonable and necessary force i.e., chemical agents, to overcome aggressive and active resistance from members of the group and persistent refusal by the group to comply with lawful orders to stop blocking the intersection and move to a park location a short distance away.</p>



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<p>The complainant, a relative of a burglary victim, alleges that named officer improperly searched him and removed his firearm from his person and that named officer was discourteous and rude while communicating with him. OPA-IS added an allegation that the named employee failed to use In-Car Video during this incident.</p>	<p>Allegations and Findings:</p> <ol style="list-style-type: none"><li>1. Discourteous/Rudeness – <b>Training Referral</b></li><li>2. Improper Search – <b>Training Referral</b></li><li>3. Failure to Use In-Car Video System – <b>Training Referral</b></li></ol> <p>The evidence demonstrated that the named officer had insufficient information to justify stopping the complainant, frisking him and removing his firearm. The evidence also demonstrated that the named employee was discourteous when interacting with complainant and that the named employee failed to use his in-car video system. The named employee will benefit by reviewing this incident with his supervisor, to remind him of the need to be able to articulate the basis for making a Terry stop and clarify with him the limitations of a pat-down search. The supervisor will also review with the named employee alternative ways to handle such a challenging encounter and remind him of the need to remain professional at all times. The named employee will also benefit from reviewing the Department's In-Car Video System policy with his supervisor to better appreciate the importance of conscientiously following the policy.</p> <p>The OPA Captain and Director suggests the Training Section and the Professional Standards Section include in department policy and training, legal guidance and practical direction for officers encountering members of the public carrying firearms under the authority of valid firearms permits. Recent news articles report a dramatic increase of officers encountering people lawfully in possession of firearms. The tension between a person lawfully possessing a firearm and the safety of the officer should be explored so that officers may better evaluate situations, articulate their decision-making, and avoid infringing upon the right of people to bear arms while ensuring public and officer safety.</p>



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Case Summary	Case Finding
<p>The complainant alleges that named officers violated his constitutional rights by temporarily detaining him and his nephew and frisking both of them and the interior of their vehicle. OPA-IS added an allegation of Failure to Use In-Car Video System.</p>	<p>Allegations and Finding: Named Officer #1</p> <ol style="list-style-type: none"><li>1. Improper Search – <b>Training Referral</b></li><li>2. Improper Investigative Detention – <b>Training Referral</b></li></ol> <p>Named Officer #2</p> <ol style="list-style-type: none"><li>1. Failure to Use In-Car Video System – <b>Training Referral</b></li></ol> <p>The evidence demonstrated that named officer #1 had insufficient information to stop, detain and search complainant's person and vehicle. Because of recent changes in the law regarding vehicle searches, a training referral will allow the officer to review with his supervisor and the Department's Training Section the importance of not only justifying a temporary investigative detention or frisk but also the importance of remaining within the scope of the detention or frisk as warranted by the reasonable suspicion articulated. The evidence also demonstrated that named officer #2 will benefit from discussing with his supervisor the importance of using his In-Car Video System and complying with Department policy and procedures.</p>
<p>The complainant, a bystander at a large protest in Downtown Seattle, alleges he observed named officer indiscriminately spraying a chemical agent on member of the protest group. Complainant also alleges when he tried to take a picture of the named officer's name tag the named officer grabbed his cell phone out of his hand and threw it 50 feet to the ground.</p>	<p>Allegations and Finding:</p> <ol style="list-style-type: none"><li>1. Unnecessary Use of Force – <b>Lawful &amp; Proper</b></li><li>2. Hindering Citizen Observation of Officer – <b>Unfounded</b></li></ol> <p>The evidence demonstrated that the named officer used reasonable and necessary force when deploying the chemical agent and that this use of force was thoroughly documented, authorized by on-scene supervisors and reviewed by an on-scene commander. The evidence also demonstrated that named officer was not attempting to prevent the complainant from photographing him but was defending himself from an imminent threat to his safety posed by the complainant's proximity and action.</p>



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<p>The complainant alleges that named officer pushed her and she fell over on two occasions while the named officer threw papers into her apartment</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force – <b>Unfounded</b></li> </ol> <p>The evidence showed that the alleged misconduct of named officer did not occur.</p>
<p>The complainant, who disputes the accuracy of a parking citation issued by named employee, alleges that a diagram the named officer drew on the back of the citation depicts a parking sign that does not exist. Complainant also alleges that named officer did not appear for court after she was notified to do so.</p>	<p>Allegations and Finding:</p> <ol style="list-style-type: none"> <li>1. Inadequate Primary Investigation – <b>Training Referral</b></li> <li>2. Failure to Attend Court Appearance – <b>Training Referral</b></li> </ol> <p>The evidence demonstrated that the named officer, though unlikely trying to misrepresent the scene likely was careless in drawing the diagram. The named officer will benefit in discussing with her supervisor the importance of accurately describing the facts of a situation, whether in words or by a diagram. The training referral will also benefit the named employee by discussing with her supervisor the importance of ensuring that her work responsibility is met and when trying to balance competing demands on her attention.</p>
<p>The complainant, a bystander during the “Occupy Seattle” protest, alleges that force used against her by an unknown officer caused a miscarriage to her pregnancy.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force – <b>Unfounded</b></li> </ol> <p>The evidence demonstrated that officers used various movements with bicycles and pepper spray to manage a crowd of protesters. However, the evidence also demonstrates that the named officers were not working the day of the alleged misconduct. The evidence also demonstrates that the complainant declined multiple requests by OPA-IS to provide medical evidence regarding her allegation.</p>
<p>The complainant alleges that named officer used biased policing and was discourteous to her when she was given a citation for blocking traffic.</p>	<p>Allegations and Finding:</p> <ol style="list-style-type: none"> <li>1. Discourtesy – <b>Unfounded</b></li> <li>2. Biased Policing – <b>Unfounded</b></li> </ol> <p>The evidence demonstrated that named officer acted reasonably and lawfully and was justified in taking the enforcement action he did.</p>



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Case Summary	Case Finding
<p>The complainant, a passenger in the car whom the named officer stopped, alleges that the named officer was rude and unprofessional while conducting the traffic stop. OPA-IS added an allegation of Failure to Use In-Car Video System.</p>	<p>Allegations and Finding:</p> <ol style="list-style-type: none"> <li>1. Discourtesy/Rudeness – <b>Sustained</b></li> <li>2. Failure to Use In-Car Video System – <b>Training Referral</b></li> </ol> <p>The evidence demonstrated that the named officer was unprofessional when interacting with complainant and the driver of the vehicle. The evidence also demonstrated that the named officer did not make use of the In-Car Video System per Department Policy. A training referral will benefit the named employee to discuss with his supervisor to consistently make use of his In-Car Video System.</p> <p>Corrective action for Discourtesy/Rudeness: Written reprimand; Read “Communication Excellence” by Brian J. Polansky. Prepare a memorandum applying the principles contained in the book and the specific set of facts in this case to demonstrate how the contact could have been handled differently. Submit the memorandum to your Captain or his/her designee for approval.</p>
<p>The complainant, a participant in an unpermitted march involving “Occupy Seattle” protest, alleges he was pepper sprayed by an unknown officer as he was peacefully protesting.</p>	<p>Allegation and Finding:</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force – <b>Lawful &amp; Proper</b></li> </ol> <p>The evidence demonstrated that officers used reasonable and necessary force to manage the unpermitted march that meandered through two precincts for several hours and caused the closure of a major intersection in downtown Seattle.</p> <p>The OPA Director notes that the Department’s policy on management of mass demonstrations, including the deployment of pepper spray, is a subject that currently is being reviewed under the 20/20 Plan.</p>
<p>The complainant, a transient who was sleeping in a City park, alleges named officer kicked him in the head while he searched for a suspect in an assault incident. The complainant also alleges the named officer was rude when he made a comment “They (transients) don’t know what I’m capable of.”</p>	<p>Allegations and Finding:</p> <ol style="list-style-type: none"> <li>1. Unnecessary Use of Force – <b>Inconclusive</b></li> <li>2. Courtesy – <b>Unfounded</b></li> </ol> <p>The allegation of Unnecessary Use of Force could neither be proved nor disproved by a preponderance of the evidence. Regarding the allegation of Courtesy, the evidence demonstrated that the named officer did not say words to the effect of what complainant described.</p>





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Case Summary	Case Finding
<p>The complainants allege that named officers were rude, failed to listen attentively to them and failed to properly investigate a disturbance that occurred in their residence and was reported to police by a neighbor.</p>	<p>Allegations and Finding: Two named officers, same allegations and finding</p> <ol style="list-style-type: none"><li>1. Failure to Complete General Offense Report – <b>Training Referral</b></li><li>2. Discourtesy – <b>Lawful &amp; Proper</b></li></ol> <p>The evidence demonstrated that the two named officers did not complete a domestic violence General Offense Report to document the incident but rather updated the CAD system. The training referral will assist the named officers by reviewing with their supervisor the importance of being vigilant for evidence suggesting a domestic violence situation and of the importance of thoroughly documenting such situations. The evidence showed that the named officers used lawful and proper language and tones with complainants after reasonably attempting to converse with them.</p>
<p>The complainant, a supervisor in the Department, alleges that named employees negligently failed to recognize an engine problem when operating a unit vehicle resulting in significant damage to the engine and disabling the vehicle.</p>	<p>Allegation and Finding: Two named officers, same allegation and finding</p> <ol style="list-style-type: none"><li>1. Improper Care of City Equipment – <b>Training Referral</b></li></ol> <p>The evidence demonstrated that the named employees should have been more observant and responsible in recognizing a problem with the vehicle. A training referral will assist the named employees to discuss with their supervisor the vehicle mechanics issues relevant to maintaining the good operation of the vehicle, including being more vigilant of engine problem warning systems.</p> <p>The OPA Lieutenant along with the OPA Director and Auditor note that there is not a formal procedure to guide officers in recognizing and responding to vehicle engine problems and suggests the Unit work on developing written guidance. Given the learning that should come out of this incident, the Director also recommends that the named officers be involved in developing the new written procedures.</p>



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### **Definition of Findings:**

**"Inconclusive"** (formerly Not Sustained) means the allegation of misconduct was neither proved nor disproved by a preponderance of the evidence.

**"Lawful and Proper"** (formerly Exonerated) means a preponderance of evidence indicates the conduct alleged did occur, but that the conduct was justified, lawful and proper.

**"Sustained"** means the allegation of misconduct is supported by a preponderance of the evidence.

**"Training Referral"** (formerly Supervisory Intervention) means while there may have been a violation of policy, it was not a willful violation, and/or the violation did not amount to misconduct. The employee's chain of command is to provide appropriate training, counseling and/or to review for deficient policies or inadequate training.

**"Unfounded"** means a preponderance of evidence indicates the alleged act did not occur as reported or classified, or is false.

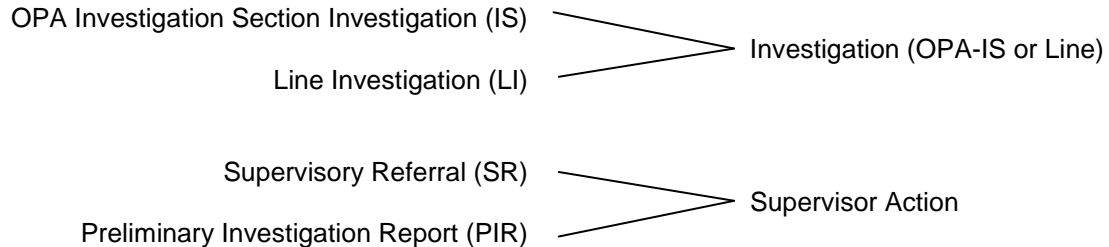
### **Mediation Program**

The OPA Director and OPA Auditor selected 5 cases during May 2012 to be resolved through the Mediation Program. Of the 5 cases that were selected, 4 complainants and officers have agreed to mediate complaint and are now in the scheduling phase of the mediation process. In 1 case, OPA is waiting to hear back from the complainant.



**Cases Opened -2011/2012 by Month Comparison**

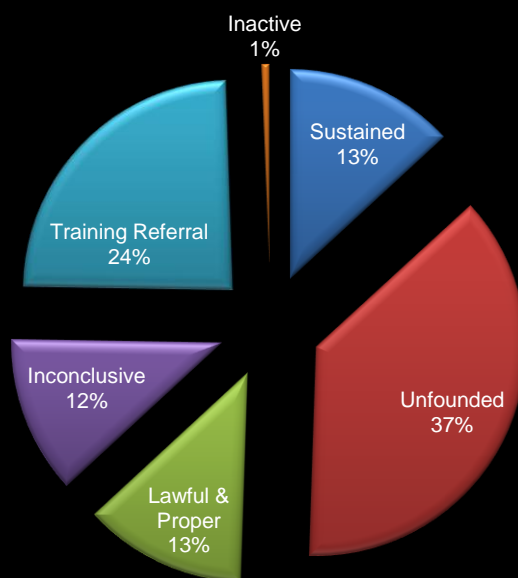
	PIR/SR	Supervisor Action	LI/IS	Investigation	TOTAL	
Date	2011	2012	2011	2012	2011	2012
1/1-1/31	17	33	20	16	37	49
2/1-2/29	24	27	18	14	42	41
3/1-3/31	19	26	13	10	32	36
4/1-4/30	31	40	23	20	54	60
5/1-5/31	37	42	19	17	56	59
6/1-6/30	29		15		44	0
7/1-7/31	26		9		35	0
8/1-8/31	39		16		55	0
9/1-9/30	22		13		35	0
10/1-10/31	27		15		42	0
11/1-11/30	21		27		48	0
12/1-12/31	26		14		40	0
<b>Totals</b>	318	168	202	77	520	245





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**Disposition of Completed Investigations**  
Cases opened as of January 1, 2012 and closed as of May 31, 2012  
N=85 Closed Cases/190 Allegations



**Disposition of Completed Investigations**  
Open as of Jan 1, 2011 and closed as of December 31, 2011  
N=200 Closed Cases/584 Allegations

